

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ASSOCIATION OF AMERICAN PHYSICIANS & SURGEONS,)	
)	
Plaintiff,)	No. 1:20-cv-00493-RJJ-SJB
)	
vs.)	Hon. Robert J. Jonker
)	
FOOD & DRUG ADMINISTRATION, <i>et al.</i> ,)	Mag. Sally J. Berens
)	
Defendants.)	
)	

MOTION TO EXPEDITE HEARING OR RULING

Plaintiff Association of American Physicians & Surgeons (“AAPS”) moves for an expedited hearing or ruling on its pending motion for a preliminary injunction, for the following reasons:

1. AAPS filed its motion for a preliminary injunction on June 22, 2020 (PageID.66), and it has been fully briefed by all parties since July 20, 2020.
2. Briefing will also be complete on Defendants’ pending motion to dismiss (PageID.502) by tomorrow, July 31, 2020, when Defendants are required to file their reply in support of their motion pursuant to the stipulated briefing schedule.
3. The complained-of arbitrary actions and misrepresentations by Defendant Food & Drug Administration (“FDA”) are causing devastating ongoing interference with access to hydroxychloroquine (HCQ), to the detriment of AAPS, its members, and millions of Americans amid a resurgence in COVID-19.
4. On Tuesday, July 28, Yale School of Public Health epidemiology Professor Harvey Risch stated on national television that “75,000 to 100,000 lives will be saved” if the HCQ

stockpile is released by Defendants, as sought by AAPS in its pending motion for a preliminary injunction. Professor Risch observed further about HCQ:

It's a political drug now, not a medical drug, and that's caused the complete population's ignorance. And I think we're basically fighting a propaganda war against the medical facts¹

5. On Wednesday, July 29, the Ohio Board of Pharmacy even promulgated a new rule that “prohibits the use of hydroxychloroquine ... for the treatment or prevention of COVID-19,” in express reliance on irrational actions by the Defendant FDA which are at issue in Plaintiff’s motion for a preliminary injunction.²

6. A day later, in an unprecedented action by Ohio Governor Mike DeWine, he asked the Ohio Board of Pharmacy to withdraw its ban, which it did but then added to the confusion by not clarifying and resolving what its position is about HCQ use for COVID-19. The senseless ban followed by its abrupt revocation is attributable to the complained-of arbitrary actions and misrepresentations by Defendant FDA at issue in AAPS’s pending motion for a preliminary injunction.

7. Also this week, on Monday, July 27, President Trump retweeted out information from the public about this lawsuit pending here,³ which is not expected to tilt the balance of equities but does illustrate the urgency amid the intense national significance of the issues presented.

8. On Thursday, July 30, former presidential candidate and Trump supporter Herman Cain unexpectedly died at the age of 74 from COVID-19, within mere weeks of

¹ <https://www.myjoyonline.com/news/international/yale-epidemiologist-says-hydroxychloroquine-could-save-up-to-100k-lives-if-used-for-coronavirus/> (viewed July 30, 2020).

² <https://aapsonline.org/judicial/OhioPBJuly292020rule.png> (viewed July 30, 2020).

³ <https://aapsonline.org/judicial/djt-rt-07-27-2020.png> (viewed July 30, 2020).

contracting it while otherwise healthy, and many hundreds or thousands of other Americans are tragically dying daily from this disease in the absence of access to early, effective treatment.⁴

9. Timely consideration and resolution of AAPS's motion for a preliminary injunction is essential to stem the ongoing irreparable harm from Defendants' arbitrary actions, false statements, and hoarding of HCQ in the Strategic National Stockpile where it deteriorates rather than being used as intended.

10. Counsel for AAPS informed opposing counsel of his intent to file this motion, but opposing counsel has not yet responded with Defendants' position as to this motion.

Respectfully submitted,

Dated: July 30, 2020

/s/ Andrew L. Schlafly
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⁴ <https://www.msn.com/en-us/news/politics/herman-cain-dies-from-coronavirus/ar-BB17nlyW> (viewed July 30, 2020).